**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 305 OF 1995**

1. The State of Maharashtra
2. The Superintendent of Police,
   Sindhudurg ..Appellants

versus

1. Nandan Dattatraya Varadkar
2. Sudhakar Vithal Parab ..Respondents

Mr. B.R. Patil, AGP for the Appellants.
Mr. A. Fatangare i/b. K. S. Bapat for the Respondent No.1.

**CORAM : D. G. DESHPANDE,J.**

**DATE : 19TH JANUARY,2005**

**ORAL ORDER :**

1. Heard learned AGP for the appellants - State and the respondents.

2. This Appeal has been filed by the State against the order of MACT, Ratnagiri, granting compensation to the respondents of Rs.12,000/- with interest at the rate of 6% per annum from the date of the Award.

3. The respondent owned an Ambassador car on the date of the accident i.e. 8.12.1989. He has kept his car in front of the house of an Advocate on road. House of the Advocate is situate just opposite to the Police Station across the road. After his work was over, he just started his car and was proceeding towards Kolhapur and when he has crossed the distance of only 10 to 15 steps from the starting point, police van from opposite came and dashed against the car causing damage to the back portion of his car. He therefore filed a claim petition for Rs.50,000/-.

4. Tribunal awarded Rs.12,000/- with interest and it is this order that is challenged in the present appeal by the State.

5. The learned AGP drew my attention to the photographs which were filed and proved by the claimants, those photographs show the damage caused to the Ambassador car. He also pointed out that car Model was of 1962. The accident has occurred in 1989. The car has out lived his life because it was in use for more than 27 years. He also drew my attention to the admission of the respondent that such a model at the relevant time of evidence can fetch Rs.15,000/- approximately. Therefore looking

to the damage caused to the car from the photographs and the fact that model was available for Rs.15,000/- at the relevant time and 27 years age of the car, compensation at the most of Rs.5,000/- should have been awarded. He drew my attention to paragraph 22 of the order of the Tribunal even wherein the Tribunal observed that the claimant has exaggerated his claim. The Tribunal also held that he must not have spent more than Rs.5,000/- for repairing of the car, therefore the learned AGP contended that at the most compensation of Rs.5,000/- was required to be awarded.

6. On the other hand counsel for the respondents contended that the respondents has filed number of receipts issued by the garage who has repaired the car. Those receipts have been taken into consideration by the lower court and therefore according to him the compensation granted is just and proper.

7. It is true that the respondents have filed number of receipts, but from the photographs which have been produced by the respondents themselves, it is clear that even though the police van gave dash to the rear side, the dash was given only to the part of the car where the rear wheel was there, other body on the rear side is totally in tact with

little and slight scratches. Secondly if the respondent had just started car and crossed distance of 10-15 steps then his car was not in a high speed and if the police station was just opposite the house of the Advocate and the police van has started from the police station then it cannot be also in a high speed, therefore the impact would not be as is tried to be coloured and painted by the respondents. Considering these facts as well as the fact that model was 27 years old from the time of the accident, that the new car was available for Rs.15,000/- at the relevant time, Rs.7,000/- would be adequate and proper compensation. Therefore, I pass the following order:

**ORDER**

The Appeal is partly allowed. Compensation of Rs.12,000/- awarded to the respondents is reduced to Rs.7,000/- with interest at the rate of 6% per annum from the date mentioned in the Award. No order as to costs.

19.1.2005 (D.G. DESHPANDE, J.)